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REMARKS

Claims 1-16 and 18-20 are pending in the application. Claims 1, 5, 11, 14 and 19 have been amended. Claim 17 is cancelled. No claims and no new matter has been added.

In regard to paragraph 1 – Objection to the drawings

The drawings are objected to under 37 CFR 1.83(a) by the Examiner. This objection is now moot because Applicants have removed the "ramp" from claim 5.

In regard to paragraph 2 – Lack of antecedent basis

The "swing arm pivot axis" in claim 11 has now been defined in claim 1 from which claim 11 depends. The "driven pulley axis" has now been defined in claim 5. The dependency of claim 11 has been amended from claim 1 to claim 5.

In claim 16, the "driven pulley axis" now finds antecedent basis in amended claim 14 from which it depends through claim 15.

Claim 19 has been amended, an "a" has been added in front of the drive system. The drive system is thus defined.

In regard to paragraph 3 – Claim Rejection Under 35 USC § 112

The Examiner has rejected claim 5 under 35 USC § 1.83(a), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is now moot because Applicant has removed the "ramp" from the claim.

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In regard to paragraph 4 – Claim Rejection Under 35 USC § 102(b)

The Examiner has rejected claims 1-4, 6, 9 and 13 as being anticipated by Tsutsumikoshi (US patent 6,591,934). Applicant respectfully disagrees.

MPEP §2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 of the present application recites, *inter alia*, a "continuously variable transmission comprising a housing that comprises at least one frame member". In other words, the CVT housing supports a portion of the mechanical load borne by the frame. Tsutsumikoshi fails to disclose at least this element of the claim.

Tsutsumikoshi discloses a motorcycle 1 having a frame 2 and a power unit 21. "A casing 44 of the engine unit 41 is constructed by combining a head cover 45, a cylinder head 46, a cylinder block 47, a crankcase 48 and a rear case 49 in sequence from the forward portion, while a vertical-plate-shaped bracket portion 51 extending rearward is uniformly formed with a rear portion of the rear case 49, and a fitting hole 52 extending through the bracket portion 51 in the vehicle width direction is pieced in the bracket portion 51." (Tsutsumikoshi column 4, line 66 to column 5, line 6) The pair of right and left pivot plates 10 are pivotably connecting the bracket portion 51 to support wheel 18 (see Figure 2). In other words the rear swing arm connection to the engine casing is made between the bracket portion 51 and the pivot plate.

Column 9, lines 28-37: "In this embodiment, for example, three frame fixing portions 113 are provided in the periphery of the bracket portion 51, and these frame fixing portions 113, one frame fixing portion 114 provided in the cylinder block 47 as shown in FIG. 4 and two frame fixing portion[sic] 115 provided in the cylinder head 46 are respectively fastened to a fastening portion provided in the down pipes 4 of the body frame 2, the middle pipes 6 and the pivot plate 10 by fixing bolts 116 (refer to FIG. 7), whereby a whole power unit 21 is fixed to the body frame 2." The Examiner's attention is drawn to the fact that none of the frame fixing portions are

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connected to transmission unit 84 therefore the mechanical loads are supported by the frame and the power unit casing 44, not by the transmission unit 42 as deccribed thereafter.

Further, "(...) the transmission unit 42 serving to transmit power from the power unit to the wheel 18 is structured such that a belt type transmission apparatus 85 is placed within a casing 84, which is independent from the engine unit 41. The casing 84 has a three-piece structure composed by an inner case 86 positioned at an inner side in the vehicle width direction, an outer case 87 covered in an outer side thereof in a liquid tight manner, and a case cover 88 covered in an outer side of the outer case 87." (Tsutsumikoshi column 8, lines 1-10)

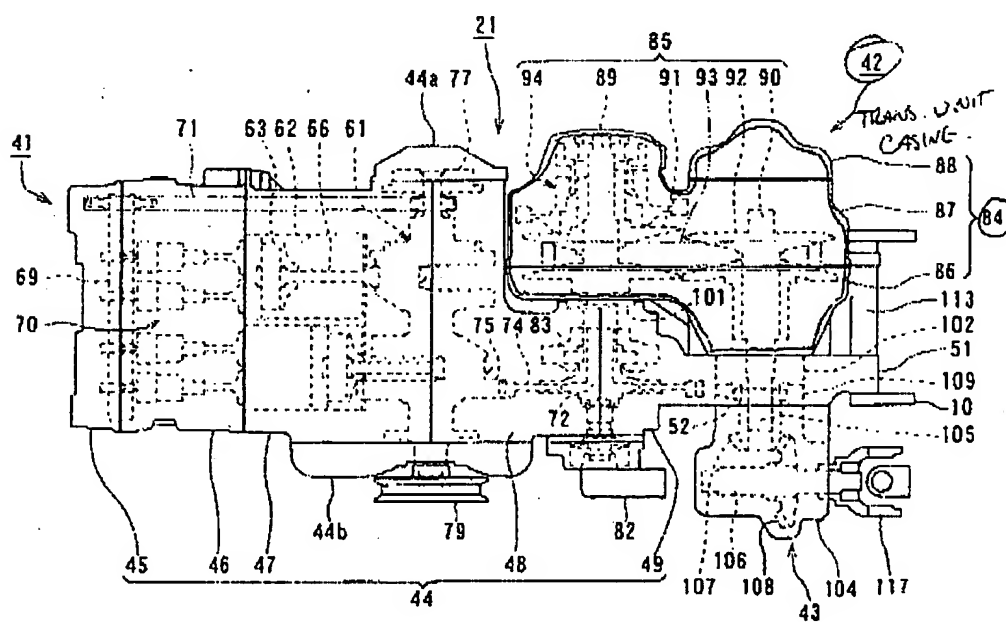


FIG. 6

In sum, since the CVT casing 84 of Tsutsumikoshi is independent from the engine unit 41 which, and it is the latter, together with the frame, that supports the mechanical loads applied on the vehicle, it is not possible that casing 84 be considered a frame member. Tsutsumikoshi does not therefore anticipate claim 1, and Applicant believes that the 102(b) rejection is improper.

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Dependent claims 2-4, 6, 9 and 13 recite additional features of the invention and are therefore believed to be allowable for the same reasons discussed above with respect to claim 1 and for the additional features recited therein.

Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing remarks.

In regard to paragraph 5 A), B) and C) – Claim Rejections Under 35 USC § 103(a)

Claim 5 is considered unpatentable by the Examiner over Tsutsumikoshi (US Patent No. 6,591,934) in view of Fukuda (US Patent No. 6,725,962). Claims 7 and 8 are considered unpatentable by the Examiner over Tsutsumikoshi (US Patent No. 6,591,934) in view of Gagnon (US Patent No. 6,626,260). Claims 10 and 20 are considered unpatentable by the Examiner over Tsutsumikoshi (US Patent No. 6,591,934) in view of Ohyama (US Patent No. 6,547,024).

Applicant maintains the same arguments as presented above. Tsutsumikoshi does not disclose nor teach a structural CVT housing as claimed in independent claims 1 and 14 of the present application. Combining Tsutsumikoshi with Fukuda or Gagnon (which is not admitted) does not provide the missing structural CVT housing.

Therefore, Applicant has not amended claims 5, 7, 8, 10 and 20 in relation with the rejection under 35 USC § 103(a). Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing remarks.

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In regard to paragraph 5 D) – Claim Rejections Under 35 USC § 103(a)

Claim 14 is considered unpatentable by the Examiner over Fukuda (US Patent No. 6,725,962) in view of Gagnon (US Patent No. 6,626,260).

Applicant has amended claim 14 to include the limitations of objected to claim 17. Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing remarks.

In regard to paragraph 5 E) – Claim Rejections Under 35 USC § 103(a)

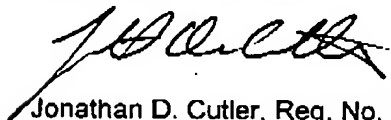
Claims 15 and 16 are considered unpatentable by the Examiner over Fukuda (US Patent No. 6,725,962) in view of Sakakibara (US Patent No. 5,052,990).

Claims 15 and 16 depends, directly or indirectly, from claim 14. Applicant has amended independent claim 14 to add the limitations of objected to claim 17. The current rejection is now moot in view of these amendments to claim 14. Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing remarks.

In view of the above amendments and remarks, the Applicant respectfully submits that all the pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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